

Filed for intro on 02/02/95
House Bill _____
By _____

Senate No. SB0792
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 1, relative to providing employees with a civil cause of action against employers for the removal of warning, guard or safety devices from machinery.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, is amended by adding the following Sections 2 through 5 as a new part:

SECTION 2. It is unlawful to remove, disconnect, alter or cause to have removed, disconnected or altered a warning, guard or other safety device from any machine, tool or other implement located in the workplace.

SECTION 3.

(a) An employee who suffers an injury caused in whole or in part by the removal of a warning, guard or other safety device from machinery, tools or equipment used in the workplace is eligible to bring an action against the possessor or owner of the machinery, tools or equipment.

(b) In any action under subsection (a), the injured employee has the burden of showing that the possessor or owner knew or should have known of the removal of the warning, guard or other safety device.

(c)

(1) In an action for damages pursuant to this section, evidence that the injured employee knew of the removal of the warning, guard, or other safety device is not admissible.

(2) Evidence that the injured employee was responsible for the removal of the warning, guard or other safety device is admissible unless the trial court determines that the injured employee's actions were at the direction of the possessor or owner.

SECTION 4.

(a) If the possessor or owner of the premises where the injury occurs is the employer of the injured person, the injured individual has the option of either pursuing such remedies available pursuant to the Tennessee Workers' Compensation Law, or bringing an action at law for damages without regard to the limitations and immunities of the Tennessee Workers' Compensation Law.

(b) An injured employee need not elect from the remedies hereby established until the employee's rights under both the Tennessee Workers' Compensation Law and under the common law for damages have been reduced to final judgment.

(c) Any benefits paid to an injured employee pursuant to the Tennessee Workers' Compensation Law prior to the employee's election of a common law remedy constitute a pro tanto satisfaction of any judgment against the employer.

SECTION 5. An action for damages against a possessor or owner of a workplace who is also the employer of an injured person is limited only to an employer of twenty-five (25) or more persons.

SECTION 6. This act shall take effect July 1, 1995, the public welfare requiring it.

